

1970/20



THE COSTS IN CRIMINAL CASES REGULATIONS 1970

ARTHUR PORRITT, Governor-General
ORDER IN COUNCIL

At the Government Buildings at Wellington this 2nd day of March 1970

Present:

THE RIGHT HON. KEITH HOLYOAKE, C.H., PRESIDING IN COUNCIL

PURSUANT to the Costs in Criminal Cases Act 1967, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Costs in Criminal Cases Regulations 1970.

(2) These regulations shall come into force on the seventh day after the date of their notification in the *Gazette*.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“The Act” means the Costs in Criminal Cases Act 1967:

“Registrar” means the Registrar of the Supreme Court or of a Magistrate’s Court; and includes their respective deputies; but does not include a Registrar of a Magistrate’s Court who is a member of the Police, and where the Registrar is a member of the Police, “Registrar” means the Registrar of the Magistrate’s Court nearest such Court who is not a member of the Police.

3. Heads of costs and maximum scales of costs—(1) Subject to subsection (3) of section 13 of the Act and to the provisions of these regulations, the heads of costs and the maximum scales of costs that may be ordered to be paid under the Act shall be those set out in the Schedule to these regulations.

(2) A court may delegate to a Registrar of the Supreme Court, in the case of proceedings taken in the Supreme Court or the Court of Appeal, or to a Registrar of a Magistrate’s Court, in the case of proceedings taken in a Magistrate’s Court, power to determine the costs to be allowed under any particular head.

4. Notice of liability—Where any order for the payment of costs is made under the Act the Registrar shall send to the person liable for payment a notice showing the amount which that person is liable to pay under the order, and shall file a copy of the notice with the proceedings in respect of which the order is made.

5. Powers of Registrar—(1) Where a Court delegates to a Registrar the power to determine the costs to be allowed under any particular head the party entitled to costs shall set out particulars of his claim under that head in an itemised statement and shall forward the same to the Registrar, who shall examine those particulars and if he is satisfied:

- (a) That the amounts claimed are just and reasonable having regard to these regulations and to the maxima set out in the Schedule to these regulations; and
- (b) That such of those amounts as are expenses or disbursements have been reasonably and properly incurred—

he shall complete, and send to the person liable for payment of the costs, a notice under regulation 4 of these regulations.

(2) If the Registrar is not so satisfied he shall either—

- (a) Give his certificate for such of the amounts claimed, or for such proportion of any of those amounts, as he considers are just and reasonable and, in the case of expenses and disbursements, are reasonably and properly incurred; or
- (b) Refer the particulars of the claim to a Judge or Magistrate who shall, where possible, be the Judge or Magistrate who presided at the proceedings.

(3) Where a Registrar gives a certificate for less than all the amounts claimed the person who made the claim may, within 10 days of the date of the certificate, require the Registrar, by notice in writing, to refer the certificate to a Judge or Magistrate who shall, where possible, be the Judge or Magistrate who presided at the proceedings.

(4) Where any certificate is referred to a Judge or Magistrate under paragraph (b) of subclause (2) or subclause (3) of this regulation, the Judge or Magistrate, after giving the Registrar and the person entitled to costs an opportunity of being heard, shall authorise the payment of such amounts as he considers are just and reasonable having regard to these regulations and to the maxima set out in the Schedule to these regulations, and, in the case of expenses and disbursements, are reasonably and properly incurred, or shall confirm or vary the Registrar's certificate or shall refer the particulars or the certificate back to the Registrar with such directions as may be requisite.

(5) The Registrar shall file a copy of the certificate as finally given with the proceedings in respect of which the order is made.

(6) If the person liable for payment of costs is the Secretary for Justice or a Government department, the Registrar concerned shall prepare and certify a voucher for the amounts of the costs payable and send it with a notice under regulation 4 of these regulations to the Secretary for Justice or the Government department, as the case may require.

SCHEDULE

Reg. 3 (1)

PART I—FEES PAYABLE TO BARRISTERS AND SOLICITORS IN RESPECT OF PROCEEDINGS UNDER THE SUMMARY PROCEEDINGS ACT 1957

A. *Hearings*

- | | |
|---|-------|
| | \$ |
| (a) For conducting a prosecution or defence in cases that are dealt with before a Magistrate or before one or more Justices, including all matters and proceedings connected with or incidental thereto,—
For each half day or part half day occupied in Court, a maximum of | 30.00 |
| (b) Where for any reason the information is withdrawn or is dismissed without a hearing, or where the defendant pleads guilty—
For each half day or part half day occupied in Court, a maximum of | 15.00 |
| (c) In respect of the preliminary hearing of an indictable offence, the maximum shall be the same as for a trial before the Supreme Court. | |

B. *Appeals*

- | | |
|--|-------|
| | \$ |
| (a) In respect of an appeal (except an appeal against sentence only),—
For each half day or part half day occupied in Court, a maximum of | 40.00 |
| (b) In respect of an appeal against sentence only—
For each half day or part half day occupied in Court, a maximum of | 15.00 |
| (c) On dismissal for non-prosecution or on a certificate being given under section 107 (8) of the Summary Proceedings Act 1957 that the appeal has not been prosecuted, a maximum of | 15.00 |

PART II—FEES PAYABLE TO BARRISTERS AND SOLICITORS IN RESPECT OF PROCEEDINGS UNDER THE CRIMES ACT 1961

A. *Trials*

In proceedings in the Supreme Court on trials of indictable offences—

- | | |
|--|-------|
| | \$ |
| (a) For conducting a prosecution or defence (including interlocutory or ancillary proceedings or matters)—
For each half day or part half day occupied in Court, a maximum of | 50.00 |
| (b) In respect of arraignment, where for any reason the trial does not proceed further, a maximum of | 25.00 |

B. Sentences

	\$
For appearance upon sentence, irrespective of the number of charges or the number of appearances, a maximum of	10.00
Provided that no fee shall be payable in respect of appearance upon the sentencing of a prisoner where the sentence is pronounced on the same day as the verdict, unless that appearance alone necessitates a separate attendance of counsel, when a fee not exceeding \$10 may be paid.	

C. Appeals

	\$
(a) In respect of an appeal (except an appeal against sentence only) or an application for leave to appeal or a case stated or question of law reserved or an ancillary application or matter— For each half day or part half day occupied in Court, a maximum of	50.00
(b) In respect of an appeal against sentence only— For each half day or part half day occupied in Court, a maximum of	20.00
(c) In respect of an appeal which is dismissed for non-prosecution, a maximum of	15.00

PART III—PROVISIONS OF GENERAL APPLICATION

A. Second Counsel

Fees may be paid in respect of second counsel if such counsel is employed and if the Court so directs, but the fees paid shall not exceed the maxima above prescribed, reduced by half.

B. Costs of a Convicted Defendant

	\$
Where costs are awarded to a convicted defendant pursuant to section 6 of the Act they shall not exceed	30.00

C. Travelling Expenses and Costs Incidental to the Proceedings

- Expenses which may be ordered to be paid under the Act shall be—
- (a) The reasonable travelling expenses and allowances of the parties to the proceedings and those of their counsel or solicitors;
 - (b) All other disbursements reasonably and properly incurred; including—
 - (i) Fees, allowances and expenses paid to witnesses and interpreters, which shall not exceed the fees, allowances, and travelling expenses prescribed by the Witnesses and Interpreters Fees Regulations 1969*; and
 - (ii) The costs of enquiries and scientific and other investigations and tests.

P. J. BROOKS,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations prescribe the heads of costs and the maximum scales of costs that may be awarded under the Costs in Criminal Cases Act 1967. They also prescribe the method of making claims.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 5 March 1970.

These regulations are administered in the Department of Justice.